

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAMON NAVARRO LUPERCIO,

Plaintiff,

v.
THE PEOPLE OF THE STATE OF
CALIFORNIA, *et al.*,

Defendants.

No. 1:21-cv-01257-NONE-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF ACTION, WITH
PREJUDICE, FOR THE FAILURE TO STATE
A COGNIZABLE CLAIM AND AS
FRIVOLOUS

(Doc. No. 19)

Plaintiff Ramon Navarro Lupercio is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On September 23, 2021, the assigned magistrate judge screened the first amended complaint and issued findings and recommendations recommending that this action be dismissed, with prejudice, for failure to state a cognizable claim and as frivolous pursuant to 28 U.S.C. § 1915(e). (Doc. No. 19.) Those findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within fourteen days after service. (*Id.* at 5.) The deadline for plaintiff to file objections has now expired.

Although plaintiff did not file objections, he filed what appear to be a motion to dismiss his prior conviction, (Doc. No. 20), and a motion for a jury trial, (Doc. No. 21). Both motions include attachments and exhibits not incorporated by reference. Nevertheless, after a review of

1 the filings, the court finds that the motions do not provide any basis for rejecting the magistrate
2 judge's finding that plaintiff's claims are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), as
3 against persons or entities involved in his criminal conviction.

4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
5 *de novo* review of this case. Having carefully reviewed the entire file, including plaintiff's
6 motions, the court finds the findings and recommendations to be supported by the record and by
7 proper analysis.

8 Accordingly,

9 1. The findings and recommendations issued on September 23, 2021, (Doc. No. 19), are
10 adopted in full;

11 2. This action is dismissed, with prejudice, for failure to state a cognizable claim and as
12 frivolous pursuant to 28 U.S.C. § 1915(e); and

13 3. The Clerk of the Court is directed to assign a district judge to this case for the purpose
14 of closing the case, terminate all pending motions, and close this case.

15 IT IS SO ORDERED.

16 Dated: November 1, 2021


17 Dale A. Droyd
18 UNITED STATES DISTRICT JUDGE

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